

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES M. WEST (89-A-6906),

Plaintiff,

v.

NEW YORK STATE DEPARTMENT OF
CORRECTIONS AND COMMUNITY
SUPERVISION,

Defendant.

NOTICE OF MOTION

Case No. 05-cv-447

PLEASE TAKE NOTICE that, upon the declaration of Daniel R. Maguire, sworn to January 9, 2018, with exhibits attached thereto, Plaintiff will move this Court before the Hon. Frank P. Geraci, Jr., Chief United States District Judge, at the United States Courthouse, 2 Niagara Square, in Buffalo, New York, on January 16, 2018, or at such time and date as the Court shall direct for an order:

1. Striking Defendant's affirmative defense that Plaintiff failed to exhaust his administrative remedies; and
2. Granting such other and further relief as the Court deems just and proper.

Dated: Buffalo, New York
January 9, 2018

PHILLIPS LYTLE LLP

By: /s/ Daniel R. Maguire

Amanda L. Lowe

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